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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Australia*, Italy, Japan, Romania*, Sweden*
and United Kingdom of Great Britain and
Northern Ireland: draft resolution

1998/... Situation of human rights in Cambodia

The Commission on Human Rights,

Guided by the purposes and principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Recalling the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict signed in Paris on 23 October 1991, including Part III relating to human rights,

Recalling its resolution 1997/49 of 11 April 1997, General Assembly resolution 52/135 of 12 December 1997 and previous relevant resolutions, including Commission resolution 1993/6 of 19 February 1993, in which it requested the Secretary-General to appoint a special representative in Cambodia, and the subsequent appointment of a special representative,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recognizing that the tragic history of Cambodia requires special measures to assure the protection of the human rights of all people in Cambodia and the non-return to the policies and practices of the past, as stipulated in the Agreement signed in Paris in 1991,

Desiring that the United Nations respond positively to assist efforts to investigate Cambodia's tragic history, including responsibility for past international crimes, such as acts of genocide and crimes against humanity,

Welcoming the continuing role and the visit to Cambodia in January 1998 of the United Nations High Commissioner for Human Rights in the promotion and protection of human rights in Cambodia,

1. Requests the Secretary-General, through his Special Representative for human rights in Cambodia, in collaboration with the office in Cambodia of the United Nations High Commissioner for Human Rights, to assist the Government of Cambodia in ensuring the protection of the human rights of all people in Cambodia and to ensure adequate resources for the enhanced functioning of the operational presence in Cambodia of the Office of the United Nations High Commissioner for Human Rights and to enable the Special Representative to continue to fulfil his tasks expeditiously;

2. Welcomes the report of the Secretary-General concerning the role of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights (A/52/489, sect.111) and encourages the Government of Cambodia to continue to cooperate with the Office, particularly in the run up to the national elections;

3. Also welcomes the agreement by the Government of Cambodia to extend the mandate of the office in Phnom Penh of the High Commissioner for Human Rights, enabling the Office to continue its operations and to maintain its technical cooperation programmes;

4. Encourages the Government of Cambodia to request the Office of the United Nations High Commissioner for Human Rights to provide advice and technical assistance with respect to the creation of an independent national institution for the promotion and protection of human rights, and looks forward to the establishment of such an institution;

5. Takes note with appreciation of the report of the Special Representative on the situation of human rights in Cambodia (E/CN.4/1998/95), in particular his concerns about the problem of impunity, the independence of

the judiciary and the establishment of the rule of law, the use of torture, the administration of prisons and the ill-treatment of prisoners, and child prostitution and trafficking;

6. Expresses grave concern about numerous instances of violations of human rights, including extrajudicial executions, torture, including rape, illegal arrest and detention, and violence in relation to political activities including those of March 1997 and July 1997, as detailed in the reports of the Special Representative, and calls upon the Government of Cambodia to investigate urgently and prosecute, in accordance with due process of the law and international standards relating to human rights, all those who have perpetrated human rights violations;

7. Also expresses grave concern at the situation of impunity in Cambodia and stresses that addressing the continuing problem of impunity, as detailed by the Special Representative, including the repeal of article 51 of the 1994 Law on Civil Servants and bringing to justice those responsible for human rights violations, together with ensuring security of persons and rights of association, assembly and expression, remains a matter of critical and urgent priority and essential to the creation of an atmosphere conducive to the holding of free, fair and credible elections;

8. Welcomes the legislative framework adopted by the National Assembly, but calls for the Constitutional Council to be convened as soon as possible, for the political atmosphere in the run-up to and during the elections to be free from intimidation, for free and equal access for all political parties to the electronic and print media, for the individual vote to be confidential, for full cooperation to be given to local and international observers and for all parties to act in a constructive manner and to accept the outcome of the elections;

9. Also welcomes the return of political leaders from abroad, a key requirement towards a credible election process, and welcomes the role the office of the Secretary-General in Phnom Penh is playing in monitoring the return of political leaders;

10. Further welcomes the role of the United Nations in the Cambodian elections, including United Nations coordination of electoral observers;

11. Calls upon Member States to contribute to the election process, including through election assistance, the provision of electoral observers and contributions to the trust fund;

12. Welcomes the ceasefire and calls upon all Cambodian parties to implement fully its terms and to facilitate the integration of all units into the Cambodian armed forces and guarantee their safety;

13. Urges the Cambodian Government, as a party to the Convention on the Elimination of All Forms of Discrimination against Women, to take all appropriate measures to eliminate discrimination against women, including in the political and public life of the country, and to combat violence against women in all its forms;

14. Urges the Government of Cambodia to take concrete action to combat child prostitution and trafficking and, in this connection, to work with the office in Cambodia of the United Nations High Commissioner for Human Rights, the United Nations Children's Fund and non-governmental organizations to develop an action plan;

15. Welcomes the role of United Nations agencies in the repatriation of refugees and calls on the Government of Cambodia to ensure their full integration into Cambodian society and political life;

16. Welcomes the signature in May 1997 of a memorandum of understanding between the International Labour Organization and the Government of Cambodia to formalize areas of cooperation in the field of child labour;

17. Notes with concern the Special Representative's comments about the judicial system and the prison administration, and strongly urges the Government of Cambodia to increase its efforts to create a functioning and impartial system of justice, including convening the Supreme Council of Magistracy, and to institute a system to guarantee the essential sustenance of prisoners and to continue its efforts to improve the physical environment of prisons;

18. Expresses grave concern at the devastating consequences of the use of anti-personnel landmines on Cambodian society and encourages the Government of Cambodia to continue its efforts for the removal of these mines and to give priority to adopting the draft law on banning all anti-personnel landmines;

19. Endorses the comments of the Special Representative that the most serious human rights violations in Cambodia in recent history have been committed by the Khmer Rouge and that their crimes, including the taking and killing of hostages, have continued to the present, and notes with concern that no Khmer Rouge leader has been brought to account for his crimes;

20. Requests the Secretary-General to examine the request by the Cambodian authorities for assistance in responding to past serious violations of Cambodian and international law, including the possibility of the appointment, by the Secretary-General, of a group of experts to evaluate the existing evidence and propose further measures, as a means of bringing about national reconciliation, strengthening democracy and addressing the issue of individual accountability;

21. Encourages the Government of Cambodia to include Cambodian human rights non-governmental organizations in the rehabilitation and reconstruction of Cambodia;

22. Notes with appreciation the use by the Secretary-General of the United Nations Trust Fund for a Human Rights Education Programme in Cambodia to finance the programme of activities of the office in Cambodia of the United Nations High Commissioner for Human Rights as defined in resolutions of the General Assembly and the Commission on Human Rights, and invites Governments, intergovernmental and non-governmental organizations, foundations and individuals to consider contributing funds to the Trust Fund;

23. Requests the Secretary-General to report to the Commission on Human Rights at its fifty-fifth session on the role of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights and on the recommendations made by the Special Representative on matters within his mandate;

24. Decides to continue its consideration of the situation of human rights in Cambodia at its fifty-fifth session under the agenda item entitled "Advisory services in the field of human rights".